application"); 10/067,010 ("the '010 application); 10/066,836 ("the '836 application"); 10/200,364 ("the '364 application"); 10/281,735 ("the '735 application") and 10/241,658 ("the '658 application"), and 10/066,951 ("the '951 application") and US Patent 6,537,983 ("the '983 Patent"). Applicant includes herewith an information disclosure statement and Form 1449 formally listing the co-pending applications, as well the '983 Patent.

In the telephone interview, Applicant's representative agreed to delete the term "preferably" from claim 2 via Examiner's Amendment. The purpose of this is to place the claim in a more acceptable form for US prosecution.

In the telephone interview, the examiner stated that potential "obviousness-type" double patenting issues might exist between the claims under examination and the claims of the '983 Patent and the '050 and '020 applications. Applicant respectfully disagreed with the examiner's position that any obvious-type double patenting is here presented. Applicant indicated that the claims of this application are patentable distinct over the claims in each of the other cases. As such, it remains applicant's position that no obviousness-type double patenting issues exist in this case.

However, solely in an effort to further prosecution, and without prejudice, applicant agreed to submit the terminal disclaimers requested by the examiner to put the case in condition for allowance. Applicant agreed to file these disclaimers because they have no effect on the actual term of any patent resulting from this application. Patents resulting from each of the disclaimed cases would have expire on the same date as a patent issuing from this application, even in the absence of the disclaimer. In filing these disclaimers, applicant specifically reserves the right to address any double patenting issues in the future, should the need arise. Applicant makes particular note of MPEP 804.02 II and established case law findings of the Federal Circuit, in Quad Environmental Technologies v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), that the filing of a terminal disclaimer to obviate a rejection based on a non-statutory double patenting is not an admission of the propriety of the rejection. The filing of a terminal disclaimer simply serves the statutory function of

removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.

In light of the formalistic amendments made herein and the terminal disclaimers filed herewith, all issued raised by the examiner in the telephone interview have been addressed. As such, the claims are asserted to be in a condition for allowance. Applicant requests that a timely Notice of Allowance be issued in this case. If any matters exist that preclude issuance of a Notice of Allowance, the examiner is requested to contact the applicant's representative at the number indicated below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sections 1.16 and/or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,

Dated: 8/6/03

Robert J. Smith

Attorney for Applicant
Reg. No. 40,820
Tel. (919) 483-9616
Fax. (919) 483-7988